

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Offic**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/083,422 05/22/98 CLARE

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EXAMINER

PEDDER, D

ART UNIT

PAPER NUMBER

3612

DATE MAILED:

06/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/083,422	Applicant(s) Clare et al.
	Examiner Dennis H. Pedder	Group Art Unit 3612

Responsive to communication(s) filed on May 19, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-5, 7, 10-12, 14, 24-28, and 30-48 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-5, 7, 10-12, 14, 24-28, and 30-48 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5, 7, 10-12, 14, 24-28, 30-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Indefinite negative limitation "does not substantially alter...without" do not particularly point out and distinctly claim. First, vehicle side panels are conceived in many widths, none of which is worthy of patentable distinction as this is an obvious matter of size. In addition, no vehicle which lacks the hidden storage system can be "identical". Secondly, this claim to a phantom vehicle, not part of the invention, is undefined and indefinite as a result. Thirdly, an appearance is a design choice, not a patentable distinction in a utility patent. Applicant is encouraged to positively claim the invention, keeping a clear line of distinction to the several patents already issued.

Claim 1 is further indefinite in "last one mechanism" on the last line.

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Claim 35 is vague in "adapted to be mounted on wheels". What exactly adapts this system to mount on wheels? Since applicant has not claimed any structure or means for this function, the claim is indefinite. Suggest positive claim language such as --mounted on a vehicle having wheels--.

Claim 35 is also deemed to be indefinite in "an opening mounted over said floor section". It would appear to the examiner that applicant intended --a storage box mounted over said floor section....said storage box having an opening,...--. It is not entirely clear if applicant intends the opening to be over the floor section. While this is possible, it is not clearly shown or disclosed, and would appear to perhaps limit applicant in a manner not intended. If intended the specification is objected to as not providing antecedent for this term and the drawings are objected to as not showing the claimed term.

Claims 5, 31, and 45 are improper Markush groups as applicant has not defined any common characteristics.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-5, 7, 25, 27-28, 31, 33, 43-44, 47, 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ward.

As stated above, the scope of this claim cannot be determined with any certainty. However, Ward has a storage box at 70 with an opening at the outer side thereof, and located between the side panels 58. The panels 58 are deemed to be substantially the same appearance as those of a pickup truck bed, but this is deemed an obvious design choice. The width of Ward's bed is slightly wider than the cab, however this is deemed to be an obvious expedient to one of ordinary skill in the art as a wider bed has more capacity and increases weight as is expected.

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Ward has hinge at 80, latch mechanism at 136 to assist in opening and to releasably secure and remote lock means 142, 146 in the cab for actuating the mechanism. The storage system of Ward is hidden or not visible when closed.

As to claim 3, the box of Ward extends along a section of the floor 34.

As to claim 27, Ward has a cab forward.

See wheel well 94 of Ward, claim 31.

6. Judicial notice challenges are noted and responded to below.
7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Bowman.

It would have been obvious to one of ordinary skill in the art to provide in Ward a strut 24/26 as taught by Bowman in order to support the opened side panel portion and to replace the cables 126,128 of Ward.

8. Claims 14 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Gallagher et al..

It would have been obvious to one of ordinary skill in the art to provide in Ward a drain/vent valve as taught by Gallagher et al. in order to drain moisture and excess pressure.

9. Claims 12, 30, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Douglass, Jr..

It would have been obvious to one of ordinary skill in the art to provide in Ward multiple hinged sections as taught by Douglass, Jr. in order to ease access.

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10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Ogilvie, US 3245713 (713).

It would have been obvious to one of ordinary skill in the art to provide in Ward a hinged section above the wheel well as taught by Ogilvie at 100.

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Powers.

It would have been obvious to one of ordinary skill in the art to provide in Ward a driver's side door in the enclosure as taught by Powers, Powers having many such driver's side doors in figure 1 and hidden storage located intermediate said door and a rear door 32 of Ward in order to access different areas of the storage compartment.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Holan et al..

It would have been obvious to one of ordinary skill in the art to provide in Ward slidable shelf as taught by Holan et al. at 40/41 in order to access contents more easily.

13. Claims 35-38, 42 rejected under 35 U.S.C. 103(a) as being unpatentable over LeVee in view of Henri.

LeVee has the hidden storage system with side panel sections 18,20, with tailgate, side panels and front wall of substantially the same height mounted to a vehicle with wheels 22, a hinged side panel section 66 and an opening in the interior wall of the side panel section 18 at 68. The opening at 68 exposes the interior of the bed with the panel removed. LeVee lacks the

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storage box having an opening mounted over the floor section. This prior art feature is known from Henri at 16a, 16b. Henri has openings at the outward side of the storage box, facing the opening at 68 of LeVee when mounted thereon. It would have been obvious to one of ordinary skill in the art to provide in LeVee storage boxes as taught by Henri in order to store items and continue to use the center portion of the bed for large item hauling.

As to claim 37, as the box of LeVee is within the side panels, the height of the box is less than the height of the bed by the thickness of the top wall at 16, figure 2.

As to claim 38, LeVee has locks at 29 to secure and hinges 28.

As to claim 42, see sections 24-26.

14. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeVee in view of Henri as applied to claim 35 above, and further in view Holan et al..

It would have been obvious to one of ordinary skill in the art to provide in the references above shelves as taught by Holan et al. in order to organize the storage area.

15. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeVee in view of Henri as applied to claim 35 above, and further in view of Ogilvie US 3,245,713.

It would have been obvious to one of ordinary skill in the art to provide in the references above a hinged side panel portion extending the length of the side panel and hinged at an upper end section thereof as taught by Ogilvie at 100/102 in order access the interior and store large items therein.

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16. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeVee in view of Henri as applied to claim 35 above, and further in view of Kiley et al..

It would have been obvious to one of ordinary skill in the art to provide in the references above a strut 54, 86 as taught by Kiley et al. in order to maintain the hinged portion in open position.

Allowable Subject Matter

17. Claims 11, 45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

18. The following is a statement of reasons for the indication of allowable subject matter: Claims 11 and 45 are indicated as containing allowable subject matter in that no art is of record in this application disclosing the claimed insulation means.

Double Patenting

19. Double patenting issues are deferred until the claims are in condition for allowance.

Response to Amendment

20. Applicant's arguments filed May 19, 2000 have been fully considered but they are not persuasive.

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Suggestion by the examiner does not appear self-evident in this application, given the scope that applicant is seeking and the several patents already in applicant's possession.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pedder whose telephone number is (703)308-2178. Fax amendments to expedite handling should be sent to (703) 305-7687.

DHP

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June 26, 2000



Dennis H. Pedder
Primary Examiner
Art Unit 3612

6/26/00